Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Figueroa	Analyst:	Darrine Distefano	Bill Number:	SB 547
Related Bills:	See Legislative History	Telephone:	845-6458	Introduced Date:	02-22-2001
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Employer Provided Public Transit Passes Credit

SUMMARY

This bill would allow employers a credit of varying percentages from 20% to 80% for providing subsidized public transit passes to their employees.

This analysis will not address the bill's provisions regarding the California Research Bureau report because it does not impact the department's programs or operations.

PURPOSE OF THE BILL

The author's staff has indicated that the intent of this bill is to encourage use of public transportation to relieve traffic congestion and to reduce air pollution.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately. It would apply to taxable years beginning on or after January 1, 2001.

POSITION

Pending.

Summary of Suggested Amendments

A technical amendment is provided to re-insert a credit that would be deleted by the bill.

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state laws allow taxpayers to deduct ordinary and necessary business expenses, which generally would include providing transit passes or other commuter benefits to employees.

Board Position:			Department Director	Date
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Existing federal law allows employees certain exclusions from gross income for the value of employer-provided commuter transportation, transit passes, or qualified parking. Employees generally cannot deduct their regular costs of commuting to and from their place of business under either federal or state law.

Current state law allows an employee to exclude from gross income the amount of compensation or the fair market value of any benefit (except salary or wages) received from an employer for participation in any ride-sharing program in California, including the value of a monthly transit pass for use by the employee or his or her dependents.

THIS BILL

This bill would create an employer credit for subsidized public transit passes in the following amounts:

- 80% if the employer provides no free or subsidized parking.
- 40% if the employer provides subsidized parking but not free parking.
- 20% if the employer provides free parking.

This bill would define “employer,” “employee,” and “transit pass.”

The credit allowed by this bill would be in lieu of any deduction to which the employer-taxpayer would otherwise be entitled for costs on which the credit is based.

Any excess credit may be carried forward for a period of up to 11 years.

Under the Personal Income Tax Law, this bill would include the subsidized transit passes credit in the list of credits that can reduce regular tax below tentative minimum tax (TMT).

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

TECHNICAL CONSIDERATIONS

This bill would strike a solar energy credit from the statute that allows credits to reduce regular tax below TMT. Although the solar energy credit can no longer be claimed on tax forms, carryovers are still being claimed by taxpayers. Therefore, this credit should not be eliminated from this list. Amendment 1 would restore this credit.

LEGISLATIVE HISTORY

AB 171 (Cunneen, 1997/1998), died in Assembly Appropriations, would have allowed a tax credit for an employer who subsidized its employees’ public transit passes or subsidized monthly vanpool fare. AB 1702 (Figureoa, 1997/1998), died in Assembly Appropriations, would have allowed a tax credit for an employer who subsidized public transit passes. SB 1427 (Rainey, 1999/2000), died in Senate Revenue and Taxation Committee, also would have allowed a tax credit for an employer who subsidized public transit passes.

PROGRAM BACKGROUND

Prior state law allowed employers a ride-sharing tax credit with two components. Employers were allowed a tax credit equal to 10% to 40% of the cost of providing subsidized public transit passes to employees, depending upon whether the employer offered free or subsidized parking. The second component was a tax credit for the purchase or lease of specified shuttle or commuter vehicles as part of an employer-sponsored ride-sharing incentive program. The credit was 20% for an employer with 200 or more employees and 30% for an employer with fewer than 200 employees.

Prior state law also provided a transit-related tax credit to employees equal to 40% of the subscription costs paid or incurred for participation in a non-employer-sponsored vanpool program.

The above credits were allowed for taxable or income years beginning on or after January 1, 1989, and before January 1, 1996.

OTHER STATES' INFORMATION

Illinois allows taxpayers to deduct, if included in adjusted gross income, ride-sharing or other benefits received by a driver in a ridesharing arrangement.

Minnesota provides corporations a credit equal to the difference between the price the corporation paid for transit passes and the price charged employees for the passes. It is non-refundable and can only be applied to the corporation's current tax liability.

Review of New York, Michigan, and Massachusetts laws found no comparable tax credits or deductions.

These states were reviewed because of the similarities between California income tax laws and their tax laws.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

This bill would result in revenue losses as shown in the following table:

Fiscal Year Cash Flow Effective 1/1/01 Enactment Assumed After June 30, 2001 $ Millions		
2001-02	2002-03	2003-04
-$4	-$3	-$4

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

The revenue impact of this bill will be determined by the number of employers that are providing subsidized transit passes and the average amount of credit applied by such employers.

The above estimates are based on state tax return data for the previous transit pass tax credit. The previous impact was increased to reflect the varying credit percentages allowed in the bill. The total credit amount was grown to reflect 5% annual growth rate and cost changes in transit passes.

POLICY CONCERNS

This credit would be allowed to reduce regular tax below tentative minimum tax for sole proprietorships, partnerships, and limited liability companies classified as partnerships. Corporations would not be allowed a similar benefit, creating an inequitable situation among various taxpayers.

This credit does not contain a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of a credit or subsidy by the Legislature.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SB 547
As Introduced February 22, 2001

AMENDMENT 1

On page 2, strike lines 38 through 39, and on page 3, strike lines 1 through 2 inclusive, and insert:

(C) The credit allowed by former Section 17052.5 (relating to solar energy, repealed as of January 1, 1987).
(D) The credit allowed by former Section 17052.5 (relating to solar energy, repealed as of December 1, 1994).

@@@@@@@@@@@@@@@ Leg Counsel: Renumber subsequent subparagraphs. @@@@@@@@@@@@@@@